

Prepared Remarks
South Carolina Attorney General Alan Wilson
House Oversight and Government Reform Committee
September 18, 2013

Thank you for the opportunity to share the concerns of Attorneys General from across the country. Last month, thirteen state Attorneys General, led by West Virginia's Patrick Morrissey, wrote Health and Human Services Secretary Kathleen Sebelius. Our letter outlined twenty-one simple, time-sensitive questions related to consumer protection and fraud prevention concerns associated with HHS Navigators and the implementation of the Affordable Care Act.ⁱ

My testimony today has nothing to do with the merits of the Affordable Care Act. It has everything to do with the first obligation of government, the security and safety of its citizens, and sharing with Congress the need to indefinitely suspend implementation of the Affordable Care Act until security risks are mitigated; privacy protections are provided; and legally mandated deadlines are properly met.

Despite the President saying last month "we're well on our way to fully implementing the Affordable Care Act," important deadlines are being routinely missed, and more importantly, security concerns are being dismissed. An unpublished Congressional Research Service memo cited by Forbes last month noted the Administration has missed more than half of the legally imposed implementation deadlines (41 of 73).ⁱⁱ

In order for the ACA to adequately determine the eligibility of consumers for exchange subsidies it must create a data hub that connects data bases from seven different agencies which include Medicare, Medicaid, the IRS, Homeland Security, HHS, VA and the Social Security Administration.

Last week, the Centers for Medicare and Medicaid Services confirmed the ACA's data "hub" complies with federal standards.ⁱⁱⁱ However, the hub has not been beta-tested, independently verified or properly audited by the Inspector General. More troubling is the fact senior HHS technology officials lowered previous standards earlier this year by saying, "Let's just make sure it's not a third-world experience."^{iv}

When it goes live on October 1, it may not be a third world experience, but it will be a con-man's all-you-can-eat buffet overflowing with a gold mine of sensitive information from Medicare/Medicaid, Social Security, IRS, Homeland Security, HHS, VA, and other government databases.

This information in the Hub should be guarded as if it were the gold in Fort Knox, not haphazardly. The Hub should be required to exceed minimally adequate protocols which have allowed the records of more than 20 million veterans to be compromised during at least eight hacks of the VA's unencrypted computer system between 2010 and 2013.^v

States are also victim of similar attacks. Exactly one year ago, more than 3.6 million South Carolinians were put at risk when hackers obtained our social security numbers and personal information during a major security breach at the South Carolina Department of Revenue.^{vi}

Such attacks make the Hub's insufficient security testing that much more troubling. However, that is not our primary immediate concern. Last month's letter was prompted by the fact that HHS is not requiring groups receiving roughly \$67 million in Navigator grants to properly screen, train, or conduct background checks on individuals who will be entering sensitive information into the federal data hub.

The Vice President for a group which received a \$1.2 million grant to "conduct target marketing campaigns and public education events" throughout South Carolina^{vii} said last week (in The State), "It's like the Girl Scouts (selling cookies), you go to shopping centers and set up tables to capture people as they come and go."^{viii}

The fact is - it is more difficult to help Girl Scouts sell boxes of cookies than it is to become a Healthcare Navigator.^{ix} While groups like the Girl Scouts require employees to complete background checks, there are no such requirements for Navigators. This is despite the fact that HHS Exchange Regulations require Navigators to "safeguard consumers' sensitive personal information" including but not limited to health, income, employment, and tax, and social security information.^x The only requirement for Navigators is that they complete 20 hours of online training, less than most states require for a driver's license.

This weekend, newspapers across the country ran headlines such as, "Rollout of Obamacare spawns slew of scams: Con artists are busy dialing seniors and other consumers as they try to cash in on the confusion around the Affordable Care Act."^{xi} Last week, the South Carolina Department of Insurance issued a consumer alert due to the proliferation of online, in person, and telephone scams.^{xii}

The first obligation of government is maintaining the safety and security of its citizens. Ironically, the implementation of a federal program, designed to provide health care to all Americans, puts us all at severe risk because it is riddled with scams and security breaches. Americans should not have to barter their privacy and financial security for health insurance.

Thus far, the Administration's implementation of the Affordable Care Act only does violence to the fundamental responsibility of the federal government, the security of its citizens. HHS must answer our questions and rectify this matter. If Americans' personal information cannot be safeguarded, the Administration must be held accountable.

###

-
- ⁱ Office of the West Virginia Attorney General. (2013, August 14). W.Va., 12 Other States Voice Concerns About Consumer Privacy Under Health Care Exchanges [Press Release]. Retrieved from <http://www.wvago.gov/press.cfm?ID=717&fx=more>
- ⁱⁱ Roy, Avik. (2013, August 18). Unpublished CRS Memo: Obama Administration Has Missed Half of Obamacare's Legally Imposed Deadlines. Forbes. Retrieved from <http://www.forbes.com/sites/theapothecary/2013/08/18/unpublished-crs-memo-obama-administration-has-missed-half-of-obamacares-legally-imposed-implementation-deadlines/print/>
- ⁱⁱⁱ Sternstein, Aliya. (2013, September 12). Obamacare Data Hub Security Review Blasted. NextGov. Retrieved from <http://www.nextgov.com/cybersecurity/2013/09/obamacare-data-hub-security-review-blasted/70220/?oref=ng-skybox>
- ^{iv} Roy, Avik. (2013, August 7). HHS Inspector General: Obamacare Privacy Protections Way Behind Schedule; Rampant Violations of Law Possible. Forbes. Retrieved from <http://www.forbes.com/sites/theapothecary/2013/08/07/hhs-inspector-general-obamacare-privacy-protections-way-behind-schedule-rampant-violations-of-law-possible/print/>
- ^v Freking, Kevin. (2013, June 3). Official describes rampant computer hacking at VA. Associated Press/Yahoo. Retrieved from <http://news.yahoo.com/official-describes-rampant-computer-hacking-va-185613959.html>
- ^{vi} South Carolina Department of Revenue. (2012, September 21). SC Department of Revenue Responds to Cyber Attack, Will Provide Credit Monitoring and Identity Theft Protection to Taxpayers [Press Release]. Retrieved from http://www.sctax.org/News+Releases/20121009_1026NR.htm
- ^{vii} Centers for Medicare and Medicaid Services. (2013, August 13). Navigator Grant Recipients. Retrieved from <http://www.cms.gov/CCIIO/Programs-and-Initiatives/Health-Insurance-Marketplaces/Downloads/navigator-list-8-15-2013.pdf>
- ^{viii} Holleman, Joey. (2013, Septmener 4). Health insurance navigators hustle to hire, train workers in SC by Oct. 1. The State. Retrieved from <http://www.thestate.com/2013/09/04/2960095/health-insurance-navigators-hustle.html>
- ^{ix} Girl Scouts of South Carolina. (2013) Background Check FAQs. Retrieved from: <http://www.gssc-mm.org/volunteers/backgroundcheckinfo.aspx>
- ^x Centers for Medicare & Medicaid Services. (2013, August). *Health Insurance Marketplace Navigator Standard Operating Procedures Manual*. 45 CFR 155.260 (a) and (b) (DHHS Publication Version 1.0). Washington, DC: U.S. Government Printing Office.
- ^{xi} Matos, Alejandra. (2013, September 15). Rollout of Obamacare spawns slew of scams. *Star Tribune*. Retrieved from <http://www.startribune.com/local/223776421.html>
- ^{xii} South Carolina Department of Insurance. (2013, September 12). Scammers Take Advantage of Health Reform Confusion [Press Release]. Retrieved from <http://www.postandcourier.com/assets/pdf/CP9535912.pdf>